



DEPARTMENT OF COMMERCE

International Trade Administration

[A-823-808]

Agreement Suspending the Antidumping Investigation of Certain Cut-to-Length Carbon Steel Plate from Ukraine: Preliminary Results of 2018-2019 Administrative Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is conducting an administrative review of the Agreement Suspending the Antidumping Investigation of Certain Cut-to-Length Carbon Steel Plate from Ukraine (Agreement). We preliminarily find that signatory Ukrainian producers/exporters Azovstal Iron & Steel Works (Azovstal) and Ilyich Iron and Steel Works (Ilyich), which are subsidiaries of Metinvest Holding LLC (Metinvest), and were individually examined in this review, are in compliance with the Agreement and that the Agreement is meeting the statutory requirements under sections 734(b) and (d) of the Tariff Act of 1930, as amended (the Act). The period of review (POR) is November 1, 2018 through October 31, 2019.

DATES: Applicable **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Sally C. Gannon or Jill Buckles, Bilateral Agreements Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0162 or (202) 482-6230, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 29, 2008, Commerce signed an agreement with Ukrainian producers/exporters Azovstal, Ilyich, and OJSC Alchevsk Iron and Steel Works (Alchevsk) under section 734(b) of the Act, suspending the antidumping duty investigation of certain cut-to-

length carbon steel plate (CTL plate).¹ On November 27, 2019, domestic interested party Nucor Corporation (Nucor) submitted a request for an administrative review of the Agreement.² On January 17, 2020, Commerce published in the *Federal Register* a notice initiating an administrative review of the Agreement.³ The period of review (POR) is November 1, 2018 through October 31, 2019.

For a complete description of the events that followed the initiation of this administrative review, *see* the Preliminary Decision Memorandum.⁴ The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>.

Scope of Review

For purposes of this Agreement, the products covered are hot-rolled iron and non-alloy steel universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm and of a thickness of not less than 4 mm, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain iron and non-alloy steel flat-rolled products not in coils, of rectangular shape, hot-rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 mm or more in thickness and of a width which exceeds 150 mm and measures at least twice the thickness. Included as subject

¹ *See Suspension of Antidumping Investigation: Certain Cut-to-Length Carbon Steel Plate From Ukraine*, 73 FR 57602 (October 3, 2008) (Agreement).

² *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 84 FR 58690 (November 1, 2019); and Letter from Nucor, "Certain Cut-to-Length Carbon Steel Plate from Ukraine: Request for Administrative Review," dated November 27, 2019.

³ *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 3014 (January 17, 2020).

⁴ *See* Memorandum, "Decision Memorandum for the Preliminary Results of the 2018-2019 Administrative Review of the Agreement Suspending the Antidumping Investigation of Certain Cut-to-Length Carbon Steel Plate from Ukraine," dated concurrently with and adopted by this notice (Preliminary Decision Memorandum).

merchandise in the Agreement are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been “worked after rolling”) for example, products which have been bevelled or rounded at the edges.

This merchandise is currently classified in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Although the HTS subheadings are provided for convenience and customs purposes, the written description of the scope of the Agreement is dispositive. Specifically excluded from subject merchandise within the scope of the Agreement is grade X-70 plate.

Methodology and Preliminary Results

Commerce is conducting this review in accordance with section 751(a)(1)(C) of the Act, which specifies that Commerce shall “review the current status of, and compliance with, any agreement by reason of which an investigation was suspended.” In this case, Commerce and Ukrainian producers/exporters Azovstal, Ilyich, and Alchevsk signed the Agreement on September 29, 2008 under section 734(b) of the Act. Section 734(b) provides that Commerce may suspend an investigation if the exporters of the subject merchandise who account for substantially all of the imports of that merchandise agree to revise their prices to eliminate completely any amount by which the normal value (NV) of the merchandise which is the subject of the agreement exceeds the export price (or the constructed export price) of that merchandise. In addition, section 734(d) of the Act requires that Commerce be satisfied that suspension of the investigation is in the public interest and that effective monitoring of the agreement is practicable.

Under sections C and D of the Agreement, a signatory producer/exporter requesting NVs pursuant to the Agreement agrees not to sell its subject merchandise to any unaffiliated purchaser in the United States at prices that are less than the NV of the merchandise, as determined by

Commerce based on the company's submitted sales and cost information. Azovstal and Ilyich are the only signatory producers/exporters that requested, and for which Commerce calculated, NVs during the POR. Alchevsk made no such request for NVs during the POR. Therefore, for purposes of this administrative review, Commerce determined to individually examine, and issue a questionnaire to, Azovstal and Ilyich. Commerce discusses additional business proprietary details regarding Alchevsk in a separate proprietary memorandum.⁵ After reviewing the information submitted in its initial and supplemental questionnaire responses, we preliminarily find Azovstal and Ilyich, collectively participating as Metinvest, to be in compliance with the terms of the Agreement during the POR. A review of the information submitted demonstrates that, pursuant to sections D(1) and D(2) of the Agreement, Metinvest reported to Commerce the sales and data required by the Agreement for calculation of the NVs. Therefore, Commerce preliminarily finds Metinvest to be in compliance with the monitoring sections D(1) and D(2) of the Agreement and that the Agreement continues to meet the statutory requirement, pursuant to section 734(d)(2) of the Act of being able to be effectively monitored.

Metinvest, in its initial questionnaire response, describes how it ensures compliance with the Agreement's pricing terms and the relevant NV period in making sales directly to unaffiliated U.S. customers and in arranging shipment to the United States.⁶ A review of the information in the initial and supplemental questionnaire responses finds no evidence of non-compliance by Metinvest with respect to ensuring that subject merchandise is sold in the United States at prices that are at or above the applicable NV determined by Commerce. Therefore, Commerce preliminarily finds that the Agreement is continuing to meet the statutory requirements section of section 734(b) of the Act.

⁵ See Memorandum, "2018-2019 Administrative Review of the Agreement Suspending the Antidumping Investigation of Certain Cut-to-Length Carbon Steel Plate from Ukraine: Preliminary Analysis Proprietary Memorandum," dated concurrently with and adopted by this notice.

⁶ See Metinvest's Letter, "Sections A, B, and C Initial Questionnaire Response," dated March 5, 2020 at 19.

With regard to the requirements of 734(d) of the Act, Commerce preliminarily finds that the Agreement continues to be in the public interest and that effective monitoring of the Agreement continues to be practicable. As Commerce preliminarily finds no evidence during the POR that Metinvest made sales of subject merchandise below the applicable NV, Commerce preliminarily finds that the Agreement continues to benefit U.S. producers by ensuring that imports of the subject merchandise are fairly traded and are not, therefore, negatively impacting the competitiveness of the domestic industry. Moreover, as Commerce preliminarily finds no evidence of non-compliance by Metinvest with the Agreement's extensive information reporting requirements, Commerce preliminarily finds that effective monitoring of the Agreement continues to be practicable. In addition, in the context of this administrative review, no party has alleged that the Agreement is no longer in the public interest or that the Agreement can no longer be effectively monitored. Accordingly, and in light of our preliminary finding that the respondents are in compliance with the statutory requirements of the Agreement, we preliminarily find that the Agreement continues to meet the criteria of sections 734(b) and (d) of the Act.

Public Comment

Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than seven days after the date for filing case briefs.⁷ Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to provide: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.⁸ All briefs must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by the established deadline. Note that Commerce has

⁷ See 19 CFR 351.309(d); see also *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

⁸ See 19 CFR 351.309(c)(2) and (d)(2).

temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.⁹

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request filed electronically via ACCESS within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing.¹⁰ Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

These preliminary results of review are being issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213.

Dated: March 18, 2021.

Christian Marsh,

Acting Assistant Secretary

for Enforcement and Compliance.

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⁹ See *Temporary Rule*.

¹⁰ See 19 CFR 351.310(c).